

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

In re

RECIPROCAL OF AMERICA (ROA)
SALES PRACTICES LITIGATION

Master File No. MDL 1551

This Document Relates to:
Civil Action No. 03-2195

ORDER DENYING AS MOOT THE MOTION OF FIRST VIRGINIA REINSURANCE, LTD.
TO DISMISS FOR LACK OF PERSONAL JURISDICTION
AND TO QUASH SERVICE OF PROCESS

Before the Court in this multi-district litigation is the August 29, 2003 motion of the Defendant, First Virginia Reinsurance, Ltd. (“FVR”), to dismiss this action and to quash service of process, pursuant to Rules 12(b)(2) and 12(b)(5) of the Federal Rules of Civil Procedure (Docket # 45). On October 15, 2004, the Plaintiff, Tommy L. Fullen, as class representative, filed an Amended, Restated and Consolidated Complaint (“Amended Complaint”), amending and consolidating his complaint with that of Michael A. Jaynes, P.C., and Michael A. Jaynes.¹ Paragraph 10 of the Amended Complaint states that FVR “is not a party to or a Defendant in this action.” (Am. Compl. ¶ 10.) Pursuant to Rule 15 of the Federal Rules of Civil Procedure, an amended pleading completely supercedes the original. See, e.g., Fritz v. Standard Sec. Life Ins. Co., 676 F.2d 1356, 1358 (11th Cir. 1982); Luckett v. Turner, 18 F. Supp. 2d 835, 837 n.2 (W.D. Tenn. 1998); see also 6 CHARLES ALLEN WRIGHT, ET AL., FEDERAL PRACTICE AND PROCEDURE § 1476 (1990). While no notice has been filed by the Plaintiff formally dismissing FVR, in light of the fact

¹ Upon a review of the original complaint filed by Michael A. Jaynes, P.C. and Michael A. Jaynes, there appears to be no allegation by them against FVR. See Jaynes v. General Reinsurance Corporation, et al., No. 04-2479 (W.D. Tenn. filed June 25, 2004).

that the Amended Complaint does not state any cause of action against FVR, it has effectively been DISMISSED as a defendant in this matter. Accordingly, the motion to dismiss and to quash service of process filed by FVR is DENIED as moot.

IT IS SO ORDERED this 25th day of May, 2006.

s/ J. DANIEL BREEN
UNITED STATES DISTRICT JUDGE